

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11 CV 267**

CAROLYN BANE,)	
)	
Plaintiff)	
)	
v)	
)	
THE PHOENIX INSURANCE)	
COMPANY,)	
)	
Defendant)	

ORDER

THIS MATTER is before the court pursuant to “Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan” (#7) filed by the parties on November 4, 2011. An examination of the Local Rules of Civil Procedure shows that court enforceable discovery does not commence until issues have joined and a scheduling order is entered. LCvR 16.1(F). The Local Rules further provide that “joinder of the issues” occurs when the final answer to a complaint, third-party complaint or a crossclaim or the final reply to a counterclaim has been filed or the time for doing so has expired. LCvR 16.1(D). An examination of the file shows that joinder of issues has not yet occurred. The defendant has requested an extension of time to file an answer or other responsive pleading in this matter and an Order was entered granting defendant up to and including November 16, 2011 to file such responsive pleading. Until the responsive pleading is filed, the undersigned cannot enter a scheduling order in this matter.

The certification and report further shows that it is the desire of the parties to consent to the jurisdiction of the magistrate judge. The undersigned appreciates the consent of the parties, however, to do so, the parties must comply with LCvR 16.1(C) and Local Rule 73.1(C). These rules require that the parties execute a "Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge". This form can be found upon website of the United States District Court for the Western District of North Carolina.

The undersigned will defer the entry of a scheduling order in this matter until joinder of the issues has occurred and would further direct the parties to, on or before November 16, 2011, file the "Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge".

ORDER

IT IS, THEREFORE, ORDERED that the parties shall execute and file the "Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge" in compliance with LCvR 16.1(C) and Local Rule 73.1(C) on or before **November 16, 2011**. The court shall defer the entry of a scheduling order until November 17, 2011.

Signed: November 9, 2011

Dennis L. Howell
Dennis L. Howell
United States Magistrate Judge

